

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WESTFIELD INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 18-cv-6330
)	
BEACON CAPITAL PARTNERS, LLC;)	
MB REAL ESTATE SERVICES INC.;)	
LIBERTY MUTUAL INSURANCE)	
COMPANY; and BARRY STANEK)	

Defendants.

NOTICE OF REMOVAL

Defendant LM Insurance Corporation (“LM”)¹, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby removes this civil action from the Chancery Division, Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division. In support of this Notice of Removal, LM states as follows:

I. THE STATE COURT ACTION

1. On August 7, 2018, Westfield Insurance Company (“Westfield”) filed an action in the Chancery Division of the Circuit Court of Cook County, Illinois, styled *Westfield Insurance Company v. Beacon Capital Partners, LLC, MB Real Estate Services Inc., Liberty Mutual Insurance Company, and Barry Stanek* (“State Court Action”), Case No. 2018-CH-10012.

2. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the Complaint in the State Court Action, along with all other pleadings, summons, process, motions and orders therein are attached hereto as Group Exhibit 1.

¹ LM was incorrectly sued as “Liberty Mutual Insurance Company.” LM intends to file a motion to reflect its correct naming and identity as LM Insurance Corporation.

3. LM was served with the Summons and Complaint on August 17, 2018. (Summons and Complaint, Group Exh. 1).

4. The Complaint seeks a declaration that Westfield owes no duty to defend or indemnify Defendants Beacon Capital Partners, LLC (“Beacon”) or MB Real Estate Services, Inc. (“MB Real Estate”) on an insurance policy that Westfield issued to its insured, Bear Construction Company (“Bear”), with respect to a personal injury lawsuit filed by Defendant Barry Stanek in the Circuit Court of Cook County (*Stanek v. Beacon Capital Partners, LLC et al.*, No. 18-L-000510). (Complaint, Group. Exh. 1). Beacon is an insured under an insurance policy issued by LM.

5. As will be shown below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1332. There is complete diversity of citizenship between Westfield and all Defendants; the amount in controversy exceeds \$75,000.00, exclusive of interest and costs; and LM files this Notice of Removal within thirty (30) days of having been served with the Complaint on August 17, 2018.

II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

6. LM received notice of the State Court Action on August 17, 2018, upon its receipt of the Summons and Complaint. Therefore, the removal of this action is timely in accordance with 28 U.S.C. § 1446(b) because the Notice of Removal was filed within thirty (30) days of service of the Complaint on LM. *See* 28 U.S.C. § 1446(b).

7. Pursuant to 28 U.S.C. § 1446(a), copies of all summons, process, pleadings, motions and orders that have been filed in the State Court Action are attached hereto as Group Exhibit 1.

8. This Court embraces the locality in which the State Court Action is now pending, making this Court a proper forum pursuant to 28 U.S.C. § 1441(a).

9. No previous application has been made for the relief requested herein.

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Plaintiff, and a copy is being filed with the Chancery Division, Circuit Court Cook County, Illinois.

11. If any question arises regarding the propriety of the removal of this action, LM respectfully requests the opportunity to present a brief and/or oral argument in support of its position that this case is removable.

III. THIS COURT HAS DIVERSITY JURISDICTION

12. Plaintiff Westfield is a company organized under the laws of Ohio with its principal place of business located at One Park Circle, PO Box 5001, Westfield Center, Ohio 44251. See Complaint, Group Exhibit 1.

13. Defendant LM is a company organized under the laws of Illinois with its principal place of business located at 175 Berkeley Street, Boston Massachusetts 02116.

14. Defendant Beacon Capital Partners, LLC (“Beacon”) is a limited liability company organized under the laws of Delaware with its principal place of business located at 200 S. State Street, 5th Floor, Boston, Massachusetts 02109.

15. Upon information and belief, Beacon’s members are Alan M. Leventhal, a citizen of is Norfolk County, Massachusetts and Fred A. Seigel, a resident of Rockingham County, New Hampshire. (Records for Beacon with the Secretary of the Commonwealth of Massachusetts and the Illinois Secretary of State, attached as Exhibit 2).

16. Defendant MB Real Estate is a company organized under the laws of Delaware with its principal place of business located at 181 W. Madison Street, Chicago, Illinois 60602.

17. Defendant Barry Stanek is, upon information and belief, a resident of Cook County, Illinois and a citizen of Illinois.

IV. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

18. For the amount in controversy requirement to be satisfied, a removing defendant need only show “...by a preponderance of the evidence that the case meets the \$75,000.00 threshold.” *Meridian Sec. Ins. Co. v. Sadowski*, 441 F.3d 536, 542 (7th Cir.2006).

19. The subject lawsuit is a declaratory judgment action and Westfield does not seek a monetary amount. However, Westfield seeks declaratory relief regarding its duties pursuant to an insurance policy, which has limits of liability for \$1,000,000. (Exhibit C to Complaint in Group Exh. 1).

20. For the reasons set forth above, LM is entitled to remove the State Court Action to this Court under 28 U.S.C. § 1441.

WHEREFORE, LM hereby removes the action now pending against it in the Circuit Court of Cook County to this Honorable Court, and requests that this Court retain jurisdiction for all further proceedings.

Dated: September 17, 2018

Respectfully submitted,

By: /s/ Regina A. Ripley

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2018, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record, and sent a copy of the foregoing document via first class mail, postage prepaid, addressed to:

Attorney for Westfield Insurance Company

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/s/Regina Ripley
